

1 HOWARD A. SLAVITT (State Bar # 172840)  
2 COBLENTZ, PATCH, DUFFY & BASS, LLP  
3 One Ferry Building, Suite 200  
4 San Francisco, CA 94111-4213  
Telephone: (415) 391-4800  
Facsimile: (415) 989-1663  
E-mail: has@cpdb.com

6 MICHAEL A. ALBERT (admitted *pro hac vice*)  
MICHAEL N. RADER (admitted *pro hac vice*)  
CHARLES T. STEENBURG (admitted *pro hac vice*)  
7 WOLF, GREENFIELD & SACKS, P.C.  
8 600 Atlantic Avenue  
Boston, MA 02210-2206  
9 Telephone: (617) 646-8000  
Facsimile: (617) 646-8646  
10 E-mail: malbert@wolfgreenfield.com  
mrader@wolfgreenfield.com  
csteenburg@wolfgreenfield.com  
11

12 Attorneys for Defendant biolitec, Inc.

13 [Other counsel of record listed on last page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

TYCO HEALTHCARE GROUP LP d/b/a  
VNUS MEDICAL TECHNOLOGIES,

Plaintiff,

VS.

20 BIOLITEC, INC., DORNIER MEDTECH  
21 AMERICA, INC., and NEW STAR  
LASERS, INC. d/b/a COOL TOUCH, INC..

## Defendants.

Case No. C08-03129 MMC

**STIPULATED REQUEST AND  
[PROPOSED] ORDER PURSUANT TO  
CIVIL L.R. 6-2 TO EXTEND CERTAIN  
DISCOVERY DEADLINES**

## AND ORDER THEREON

TYCO HEALTHCARE GROUP LP d/b/a  
VNUS MEDICAL TECHNOLOGIES

Plaintiff.

VS.

TOTAL VEIN SOLUTIONS, LLC. d/b/a  
TOTAL VEIN SYSTEMS,

## Defendants.

Case No. C08-04234 MMC

(consolidated with Case No. C08-03129 MMC)

1           WHEREAS scheduling difficulties have rendered impractical certain discovery deadlines  
2 in this case and in order to efficiently manage discovery, Tyco Healthcare Group LP d/b/a VNUS  
3 Medical Technologies, Inc., biolitec, Inc., Dornier MedTech America, Inc., New Star Lasers, Inc.  
4 d/b/a CoolTouch, Inc. and Total Vein Solutions, LLC d/b/a Total Vein Systems (each a "Party"  
5 and collectively the "Parties") have conferred and respectfully request that the Court enter an  
6 order in accordance with the stipulation among the parties as follows:  
7

8           1. The Parties agree that each side will be entitled to take more than the default number of  
9 depositions contemplated by Fed. R. Civ. P. 30. VNUS may take up to 28 total fact depositions  
10 (including individual fact witness depositions and Rule 30(b)(6) depositions). VNUS may take  
11 no more than seven depositions of each Defendant (including individual fact witness depositions  
12 and Rule 30(b)(6) depositions). Defendants may take 20 total fact depositions (including  
13 individual fact witness depositions and Rule 30(b)(6) depositions). Expert depositions and  
14 depositions of third party witnesses are not included in the aforementioned limits.  
15

16           2. On or before August 30, 2010, each Party will disclose to the opposing side all persons  
17 they intend to offer as witnesses in their case in chief at trial. In addition, to the extent such  
18 witnesses were not identified in the Party's Initial Disclosures, the Party intending to call such  
19 witness will promptly identify such witness as soon as known and, in any event, on or before  
20 August 30, 2010. Except for witnesses offered in rebuttal to evidence offered by another Party,  
21 the Parties will be barred from introducing testimony of witnesses not disclosed to the other side  
22 by August 30, 2010.  
23

24           3. Each side shall be permitted to depose, no later than four weeks before the  
25 commencement of trial, any person identified as a potential trial witness by the opposing side, to  
26 the extent such individuals have not previously been deposed in this litigation. Such depositions  
-- are not subject to and do not count against the aforementioned limit on fact depositions.

1                   4. A further status conference will be held on Friday May 14, 2010 at 10:30 am, subject  
2 to the Court's availability.

3                   5. The Pretrial Preparation Order (D.I. 81) shall be amended to specify the following new  
4 discovery deadlines, none of which affect the Pre-Trial Conference or the Trial Date in this  
5 action:

Event	Current Date	New Date
Fact Discovery Cut-Off	February 1, 2010	March 1, 2010
Final Date for Motions to Compel Fact Discovery (Civ. L.R. 26-2)	February 8, 2010	March 8, 2010
Deadline for Expert Reports for Issues on which the Parties Bear the Burden	March 5, 2010	April 2, 2010
Deadline for Rebuttal Expert Reports	April 9, 2010	May 7, 2010
Status Conference	n/a	May 14, 2010
Expert Discovery Cut-Off	May 14, 2010	June 4, 2010
Final Date for Motions to Compel Expert Discovery (Civ. L.R. 26-2)	May 21, 2010	June 11, 2010
Deadline for Filing of Dispositive Motions	June 25, 2010 (no change)	
Deadline for Filing of Oppositions to Dispositive Motions	July 9, 2010 (no change)	
Deadline for Filing of Replies to Dispositive Motions	July 16, 2010 (no change)	
Deadline for Production of Summary Sales and Financial Data for Quarters Concluded After Fact Discovery Cut-Off	n/a	July 16, 2010

Event	Current Date	New Date
Hearing on Dispositive Motions		July 30, 2010 (no change)
Deadline for Plaintiff's Supplemental Expert Reports Related to Damages <sup>1</sup>	n/a	July 26, 2010
Deadline for Defendants' Supplemental Rebuttal Expert Reports Related to Damages <sup>2</sup>	n/a	August 13, 2010
Pre-Trial Conference		September 14, 2010 (no change)
Trial Begins		October 18, 2010 (no change)

Pursuant to Civil L.R. 6-2, the accompanying declaration of Michael N. Rader describes the reasons for the enlargement of time, discloses all previous time modifications in the case, and explains that the requested time modification would not have any effect on the currently-scheduled trial date.

Dated: November 18, 2009

WOLF, GREENFIELD & SACKS, P.C.

/s/ Michael N. Rader

Michael N. Rader (*admitted pro hac vice*)  
Charles T. Steenborg (*admitted pro hac vice*)  
600 Atlantic Avenue  
Boston, MA 02210  
Tel: (617) 646-8000  
Fax: (617) 646-8646  
mrader@wolfgreenfield.com  
csteenborg@wolfgreenfield.com

Attorneys for Defendant biolitec, Inc.

<sup>1</sup> The Parties stipulate that the content of Plaintiff's supplemental expert reports related to damages will be limited to the analysis of the summary sales and financial data required to be produced by July 16, 2010.

<sup>2</sup> The Parties stipulate that the content of Defendants' supplemental expert reports related to damages will be limited to the analysis of (1) Plaintiff's supplemental expert reports related to damages and (2) the summary sales and financial data required to be produced by July 16, 2010.

1 KING & SPALDING LLP  
2

3 /s/ Richard W. Miller  
4

5 A. Shane Nichols (*admitted pro hac vice*)  
6 Richard W. Miller (*admitted pro hac vice*)  
7 1180 Peachtree Street N.E.  
8 Atlanta, GA 30309-3521  
9 Tel: (404) 572-4600  
10 Fax: (404) 572-5100  
11 snichols@kslaw.com  
12 rmiller@kslaw.com

13 Attorneys for Defendant  
14 Dornier MedTech America, Inc.

15 ORRICK, HERRINGTON & SUTCLIFFE LLP  
16

17 /s/ James W. Geriak  
18

19 James W. Geriak (Bar No. 32871)  
20 Allan W. Jansen (Bar No. 81992)  
21 4 Park Plaza, Suite 1600  
22 Irvine, CA 92614-2558  
23 Tel: (949) 567-6700  
24 Fax: (949) 567-6710  
25 jgeriak@orrick.com  
ajansen@orrick.com

26 Attorneys for Defendant  
27 New Star Lasers, Inc. d/b/a CoolTouch, Inc.

28 BUCHE & ASSOCIATES, P.C.  
29

30 /s/ John Karl Buche  
31

32 John Karl Buche (Bar No. 239477)  
33 Sean M. Sullivan (Bar No. 254372)  
34 875 Prospect, Suite 305  
35 La Jolla, CA 92037  
36 Tel: (858) 812-2840  
37 Fax: (858) 459-9120  
38 jbuche@westerniplaw.com  
39 sean@westerniplaw.com

40 Attorneys for Defendant  
41 Total Vein Solutions, LLC d/b/a Total Vein Systems  
42  
43

DAVIS POLK & WARDWELL LLP

/s/ David J. Lisson  
Matthew B. Lehr (Bar No. 213139)  
Suong T. Nguyen (Bar No. 237557)  
David J. Lisson (Bar No. 250994)  
1600 El Camino Real  
Menlo Park, CA 94025  
Tel: (650) 752-2000  
Fax: (650) 752-2111  
[matthew.lehr@davispolk.com](mailto:matthew.lehr@davispolk.com)  
[suong.nguyen@davispolk.com](mailto:suong.nguyen@davispolk.com)  
[david.lisson@davispolk.com](mailto:david.lisson@davispolk.com)

Attorneys for Plaintiff  
Tyco Healthcare Group LP d/b/a  
VNUS Medical Technologies

I hereby attest that I have on file written (or e-mail) permission to sign this stipulation from all parties whose signatures are indicated by a “confirmed” signature (/s/) within this e-filed document.

Dated: November 18, 2009

/s/ Michael N. Rader

Michael N. Rader

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: November 20, 2009

ERED.  
  
HON. MAXINE M. CHESNEY, U.S.D.J.